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10/589,613	08/16/2006	Venura C. Mendis	36-1999	8658
23117 7590 03/20/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
LEE, JINHEE J				
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2174				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/589,613

**Applicant(s)**

MENDIS ET AL.

**Examiner**

Jinhee J. Lee

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/88)  
Paper No(s)/Mail Date 0107.1106
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1 and 15 are objected to because of the following informalities:  
Claim 1 line 1 and claim 15 line 1, the phrase "organising" has a spelling error.  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-9xs are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the second area" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 is confusing. It is missing the words such as "comprising" or "including" which distinguish the meat and the pre-amble of the claim.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 has been met. "Storage" in the specification is presented as "storage devices can be general purpose computer storage devices such as magnetic disks, CD-ROMs, DVD, etc."

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-21 and 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Madrane (6573907).

Re claim 1, Madrane discloses a data handling device comprising a display (column 2 lines 1-2 for example) for displaying representations of the media objects (see figure 17, 18, root images for example), data storage means (see column 20 lines 24-26 for example) for allocating metadata tags (see column 13 line 66 to column 14 line 1, information designating these objects as "extractable" for example) to the media objects, an input device (interface viewer unit for example) comprising means to allow a representation of a selected media object to be moved into a region of the display representing a selected set of metadata tags (see figures 17-18 for example), and means for causing the selected set of tags to be applied to the media object (see column 13 line 66 to column 14 line 3 for example).

Re claim 2, Madrane discloses a data handling device, configured to allow a user to generate additional metadata tags (see column 15, lines 18-20, additional text for example) having new values, such that the media objects may be further categorized.

Re claim 3, Madrane discloses a data handling device, configured to provide a view of media objects to which one or more of a predetermined plurality of metadata tags have been applied (see figure 43 for example).

Re claim 4, Madrane discloses a data handling device, configured to provide a view of media objects to which each of a predetermined plurality of metadata tags have been applied (see figure 35 for example).

Re claim 5, Madrane discloses a data handling device, wherein means are provided to provide user control of the maximum number of metadata tag sets to be displayed (define how many, see column 7 line27 for example).

Re claim 6, Madrane discloses a data handling device, in which representations of the media objects are capable of being moved between regions of the display area representing sets of metadata tags having pre-defined values (identify which are "hot objects", see column 7 lines 30-31 for example).

Re claim 7, Madrane discloses a data handling device, comprising means for removing a representation of a selected media object from one display area and adding it to another, thereby applying the metadata tag set associated with the second area to the selected media object in place of the set of metadata tags associated with the first area (see column 7 lines 30-33 for example).

Re claim 8, Madrane discloses a data handling device wherein a representation of a media object selected from a display area associated with a first metadata tag set applied to the media object may remain there whilst a copy of the selected media object is placed in a second area, thereby applying the metadata tag set associated with

the second area to the media object in addition to the set associated with the first area (see column 20 lines 45-50 for example).

Re claim 9, Madrane discloses a data handling device, providing means for indicating the number of media objects associated with a given set of metadata tags (column 7 lines 25-31 for example).

Re claim 10, Madrane discloses a data handling device, providing means for indicating the number of metadata tags associated with one or more media objects (define how many...what image information, see column 7 lines 25-37 for example).

Re claim 11, Madrane discloses a data handling device, providing means for identifying media objects to which no metadata tags have been applied by providing a display area representing an empty set (identify which objects in the scene are "hot objects", see column 7 lines 30-34 for example).

Re claim 12, Madrane discloses a data handling device, providing means for selecting a subset of the media objects for allocating a given set of metadata tags ("hot objects" and what image information will be displayed, see column 7 lines 30-34 for example).

Re claim 13, Madrane discloses a data handling device, providing means for making the size of the display area allocated to each set of metadata tags proportional to the number of media objects portrayed therein (see column 5 lines 34-40 for example).

Re claim 14, Madrane discloses a computer program or suite of computer programs for use with one or more computers to provide any of the apparatus as set out in claim 1 (see column 2 line 10 for example).

Re claim 15, Madrane discloses a method of organizing and storing media objects for subsequent retrieval, the media objects being represented in a display, and in which metadata tags are applied to the media objects by selecting an individual media object from the display, and causing a set of metadata tags to be applied to the selected media object by placing a representation of the selected media object in a region of the display selected to represent the set of tags to be applied (see column 7 lines 25-35 for example).

Re claim 16, Madrane discloses a method, in which a user may generate additional metadata tags having new values, such that the media objects may be further categorized (see column 15 lines 17-20 for example).

Re claim 17, Madrane discloses a method, wherein a view is provided of media objects to which one or more of a predetermined plurality of metadata tags have been applied (see column 15 lines 17-20, see figure 43 for example).

Re claim 18, Madrane discloses a method, wherein a view is provided of media objects to which each of a predetermined plurality of metadata tags have been applied (see figure 35 for example).

Re claim 19, Madrane discloses a method, wherein provision is made to control the maximum number of categories to be displayed (define how many, see column 7 line 27 for example).

Re claim 20, Madrane discloses a method, in which representations of the media objects are moved between regions of the display area representing sets of metadata tags having pre-defined values (see column 7 lines 30-31 for example).

Re claim 21, Madrane discloses a method, wherein a representation of a media object is selected from a first display area associated with a first metadata tag set, and a copy of the selected representation is placed in a second area whilst the original representation remains in the first area, thereby applying the metadata tag set associated with the second area to the media object, in addition to the set associated with the first area (see column 20 lines 45-50 for example).

Re claim 23, Madrane discloses a method, wherein the number of media objects associated with a given set of metadata tags is indicated (see column 7 lines 25-31 for example).

Re claim 24, Madrane discloses a method, wherein the number of metadata tags associated with one or more media objects is indicated (see column 7 lines 25-37 for example).

Re claim 25, Madrane discloses a method, wherein media objects to which no metadata tags have been applied are identified by providing a display area representing an empty set (see column 7 lines 25-37 for example).

Re claim 26, Madrane discloses a method, wherein a subset of the media objects may be selected for allocation of a given set of metadata tags (see column 7 lines 25-35 for example).



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Re claim 27, Madrane discloses a method, wherein the size of the display area allocated to each set of metadata tags is proportional to the number of media objects portrayed therein (see column 5 lines 34-40 for example).

Re claim 28, Madrane discloses a computer program or suite of computer programs for use with one or more computers to provide the method of claim 15 (see column 2 line 10 for example).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Madrane

Re claim 22, Madrane substantially discloses a method as set forth in claim 20 above. Madrane does not explicitly disclose a representation of a selected media object

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may be removed from a first display area associated with one metadata tag set when added to a second display area, thereby applying the set of metadata tags associated with the second display area to the selected media item in place of the set of metadata tags associated with the first display area. Madrane teaches of applying the set of metadata tags associated with the second display area to the selected media item in place of the set of metadata tags associated with the first display area when added to a second display area. Deleting functions are well known. It would have been an obvious matter of design choice to have a representation of a selected media object may be removed from a first display area associated with one metadata tag set when added to a second display area, since such a modification would have involved the mere application of a known technique to a piece of prior art ready for improvement. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinhee J. Lee whose telephone number is 571-272-1977. The examiner can normally be reached on M- F at 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-2100 ext. 74. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jinhee J Lee/  
Primary Examiner, Art Unit 2174

jji